

Old File NO. 53292

Date filed 1-26-2021

State of Utah
Administrative Rule Analysis
Revised May 2020

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ☐; Amendment XXXX; Repeal ☐; Repeal and Reenact ☐

Utah Admin. Code Ref (R no.):	Title No. - Rule No. - Section No. R156-1	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):		

Agency Information

1. Department:	Commerce	
Agency:	Division of Occupational and Professional Licensing	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Deborah Blackburn	(801) 530-6060	deborahblackburn@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
General Rule of the Division of Occupational and Professional Licensing
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The Division of Occupational and Professional Licensing ("Division") is filing these proposed amendments to clarify and update the rule and to implement certain statutory changes made by H.B. 10, H.B. 285, H.B. 313, H.B. 455, S.B. 23, and S.B. 201 passed in the 2020 General Session.
4. Summary of the new rule or change:
Extensive nonsubstantive formatting changes are made throughout all sections. In addition, substantive changes are made to the following sections:
R156-1-102 definitions are updated to remove references to "diversion" per HB 285.
R156-1-106 is amended in its entirety to clarify the procedures for requesting licensee lists from the Division.
R156-1-109 is amended to update the persons designated to serve as presiding officers. A Department of Commerce ALJ or licensed Administrative attorney is designated as the presiding officer for conducting Division citation hearings, and the Utah Professionals Health Program (UPHP) manager is designated as the presiding officer for conducting informal adjudicative proceedings involving the UPHP, including approval or denial of a licensee's request for entry into UPHP. References to the Residence Lien Recovery Fund Advisory Board are deleted per HB 10.
R156-1-110 is amended to clarify the requirements for service of an investigative subpoena.

R156-1-301 is amended to clarify that the filing date of license applications is the date the approval is input into the Division's electronic licensure database.

New Section R156-1-301.7 is added in accordance with S.B. 23 to clarify the standards for Division notification by email.

R156-1-308a is amended to establish: (1) that the renewal date for the new state certified veterinary technician certification created by HB 455 is September 30 even years, and (2) that the Division may extend the final 2-year term for a funeral service intern license up to two years upon satisfactory evidence of reasonable progress towards licensure and of a circumstance of hardship beyond the control of the licensee that prevented completion of the licensure process.

R156-1-308c is amended per S.B. 23 to update renewal of license procedures to allow renewal notices to be sent to licensees by email, and to clarify that a notification sent by the Division to the most recent mailing address or email address provided to the Division constitutes legal notice.

R156-1-308e regarding reinstatement dates for a dissolved entity is amended to update the rule to conform to Subsection 58-1-308(2).

R156-1-310 is updated to provide that agency review is not available for a Division order or determination for an application filed under Section 58-1-310.

R156-1-404a through R156-1-404d are deleted in their entirety in accordance with HB 285, which repealed Section 58-1-404 regarding the Division's Diversion program and enacted Title 58, Chapter 4a, Utah Health Professionals Program.

R156-1-501 regarding unprofessional conduct is updated to (1) delete the outdated 2004 Model Policy for the Use of Controlled Substance for the Treatment of Pain, and the outdated 2013 Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain, and replace them with the new "Guidelines for the Chronic Use of Opioid Analgesics" adopted as policy April 2017 by the Federation of State Medical Boards; and (2) add as unprofessional conduct the violation of a "program contract" under the Utah Professionals Health Program.

R156-1-502 administrative penalties fine table is updated to provide midrange fines for violating Subsection 58-1-501(1)(g) (aiding or abetting any other person to violate any statute, rule, or order regulating an occupation or profession under Title 58). The midrange fines are \$500 for a first offense and \$1,000 for a second offense.

R156-1-602 and R156-1-603 are amended to conform the rule to statutory changes made by HB 313, Telehealth Parity Amendments.

Google Meets information for February 25, 2021 rule hearing before the Division:

Join with Google Meet

meet.google.com/mms-abwd-mxu

Join by phone

(US) [+1 657-529-2812](tel:+16575292812) (PIN: 172567001)

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

None of these proposed amendments are expected to impact state government revenues or expenditures because the changes merely update global Division administration standards and make formatting changes for clarity, and update the rules to implement statutory requirements from the bills passed in the 2020 General Session, and do not impose additional cost or savings beyond what was anticipated during the legislative process.

B) Local governments:

No impact is expected to local governments because these changes will not affect local government practices or procedures.

C) Small businesses ("small business" means a business employing 1-49 persons):

None of these proposed amendments are expected to impact small business revenues or expenditures because the changes merely update global Division administration standards and make formatting changes for clarity, and update the rules to implement statutory requirements from the bills passed in the 2020 General Session, and do not impose additional cost or savings beyond what was anticipated during the legislative process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

None of these proposed amendments are expected to impact non-small business revenues or expenditures because the changes merely update global Division administration standards and make formatting changes for clarity, and update the rules to implement statutory requirements from the bills passed in the 2020 General Session, and do not impose additional cost or savings beyond what was anticipated during the legislative process.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division estimates that approximately two funeral service interns per year who are in their final 2-year term under Title 58, Chapter 9 may experience a fiscal benefit from the proposed amendment that clarifies that the Division may extend a final 2-year term up to two years upon satisfactory evidence of reasonable progress towards licensure and a circumstance of hardship beyond the control of the licensee, as these persons will not be forced to stop working because of the hardship and will have a chance to continue working towards their funeral service director license and in their career of choice. However, the exact benefit cannot be estimated because it will depend on the individual circumstances of hardship and the choices of each individual licensee. None of the remaining amendments are expected to impact other persons because the changes merely update global Division administration standards and make formatting changes for clarity, and update the rules to implement statutory requirements from the bills passed in the 2020 General Session, and do not impose additional cost or savings beyond what was anticipated during the legislative process.

F) Compliance costs for affected persons:

None of the proposed amendments are expected to impose compliance costs on affected persons because the changes merely update global Division administration standards and make formatting changes for clarity, and update the rules to implement statutory requirements from the bills passed in the 2020 General Session, and do not impose additional costs beyond what was anticipated during the legislative process.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The head of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The Division of Occupational and Professional Licensing (Division) proposes amendments to the Division of Occupational and Professional Licensing Act Rule. The Division is filing these proposed amendments to clarify and update the rule and to implement certain statutory changes made by HB 10, HB 285, HB313, HB 455, SB 23 and SB 201 passed in the 2020 General Legislative Session. Among the changes are changes to the diversion program, hearing officer designation, investigative subpoena powers, notification procedures, and telehealth. Further, the Division has made minor amendments to update references and clarify the rule.

Small Businesses (less than 50 employees):

The proposed amendments are not expected to impact small business revenues or expenditures because the changes merely update the global Division administration standards and make formatting changes for clarity. Further, no fiscal impact is expected for small business over and above any fiscal impact described in the legislative fiscal notes for HB 10, HB 285, HB 313, HB 455, SB 23, and SB 201 passed in the 2020 General Legislative Session as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-small businesses (50 or more employees):

These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small business. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

B) Name and title of department head commenting on the fiscal impacts:

Margaret W. Busse, Interim Executive Director

Citation Information**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 58-1-106(1)(a)

Section 58-1-308

Subsection 58-1-501(2)

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

First Incorporation	
Official Title of Materials Incorporated (from title page)	Guidelines for the Chronic Use of Opioid Analgesics (updates)
Publisher	Federation of State Medical Boards
Date Issued	
Issue, or version	April 2017

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

Second Incorporation	
Official Title of Materials Incorporated (from title page)	Model Policy for the Use of Controlled Substances for the Treatment of Pain (deletes)
Publisher	Federation of State Medical Boards
Date Issued	
Issue, or version	2004

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy):

03/17/2021

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

02/25/2021

At (hh:mm AM/PM):

9:00 AM

At (place):

Rule hearing will be held electronically before the Division. See Google Meets information in box #4.

10. This rule change MAY become effective on (mm/dd/yyyy): 03/24/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or
designee, and title:

Mark B. Steinagel, Director

Date

(mm/dd/yyyy):

01/26/2021

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rule of the Division of Occupational and Professional Licensing.

R156-1-102. Definitions.

In addition to the definitions in Title 58, Occupations and Professions, as used in Title 58, Occupations or Professions or [this rule] in this Title R156, Occupational and Professional Licensing, the following rule definitions supplement the statutory definitions:

(1)(a) "Active and in good standing" means a licensure status ~~[which]~~that allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.

(b) A license that has been placed on probation subject to terms and conditions is not active and in good standing.

(2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee. Aggravating circumstances include:

(a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;

(b) dishonest or selfish motive;

(c) pattern of misconduct;

(d) multiple offenses;

(e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;

(f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;

(g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;

(h) vulnerability of the victim;

(i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;

(j) illegal conduct, including the use of controlled substances; and

(k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) "Cancel" or "cancellation" means nondisciplinary action by the Division to rescind, repeal, annul, or void a license:

(a) issued to a licensee in error, such as where a license is issued to an applicant;

(i) whose payment of the required application fee is

dishonored when presented for payment;

(ii) who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards;

(iii) who has been issued the wrong classification of licensure; or

(iv) due to any other error in issuing a license; or

(b) not issued erroneously, but where subsequently the licensee fails to maintain the ongoing qualifications for licensure, when such failure is not otherwise defined as unprofessional or unlawful conduct.

(4) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, ~~[which]~~ that serve as the basis to consider a licensee for inclusion in the ~~[diversion program]~~ Utah Professionals Health Program authorized in ~~[Section 58-1-404]~~ Title 58, Chapter 4a, Utah Professionals Health Program.

(5) "Conditional licensure" means an interim non-adverse licensure action, in which a license is issued to an applicant for initial, renewal, or reinstatement of licensure on a conditional basis in accordance with Section R156-1-308f, while an investigation, inspection, or audit is pending.

(6) "Denial of licensure" means action by the Division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure, or relicensure.

(7)(a) "Disciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-401(2)(a) ~~[through (2)]~~ or (b).

(b) "Disciplinary action" ~~[7]~~ as used in Subsection 58-1-401(~~5~~) 6:

(i) means an adverse action initiated by the Division; and

(ii) does not [7, shall not be construed to] mean an adverse licensure action taken by the Division in response to an application for licensure. [Rather, as used in Subsection 58-1-401(5), it shall be construed to mean an adverse action initiated by the Division.]

~~_____ (8) "Diversion agreement" means a formal written agreement between a licensee, the Division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.~~

~~_____ (9) "Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.]~~

(~~10~~) 8) "Duplicate license" means a license reissued to

replace a license ~~[which]~~that has been lost, stolen, or mutilated.

(~~[11]~~9) "Emergency review committee[s]" means an emergency adjudicative proceedings review committee[s] created by the Division under the authority of Subsection 58-1-108(2).

(~~[12]~~10) "Expire" or "expiration" means the automatic termination of a license ~~[which]~~that occurs:

(a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or

(b) prior to the expiration date shown on the license:

(i) upon the death of a licensee who is a natural person;

(ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or

(iii) upon the issuance of a new license ~~[which]~~that supersedes an old license, including a license ~~[which]~~that:

(A) replaces a temporary license;

(B) replaces a student or other interim license ~~[which]~~that is limited to one or more renewals or other renewal limitation; or

(C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

(~~[13]~~11) "Inactive" or "inactivation" means action by the Division to place a license on inactive status in accordance with Section[s] 58-1-305 and Section R156-1-305.

(~~[14]~~12) "Investigative subpoena authority" means, except as otherwise specified in writing by the director, the Division regulatory and compliance officer, or if the Division regulatory and compliance officer is unable to so serve for any reason, a Department administrative law judge, or if both the Division regulatory and compliance officer and a Department administrative law judge are unable to so serve for any reason, an alternate designated by the director in writing.

(~~[15]~~13) "License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.

(~~[16]~~14) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions, or both upon a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(~~[17]~~15) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or

licensee.

(a) Mitigating circumstances include:

(i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;

(ii) personal, mental or emotional problems provided such problems have not posed a risk to the health, safety or welfare of the public or clients served such as drug or alcohol abuse while engaged in work situations or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;

(iii) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;

(iv) full and free disclosure to the client or Division prior to the discovery of any misconduct;

(v) inexperience in the practice of the occupation ~~[and] or~~ profession, ~~[provided such inexperience]~~ that is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;

(vi) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and

(vii) remorse.

(b) The following factors may not be considered as mitigating circumstances:

(i) forced or compelled restitution;

(ii) withdrawal of complaint by client or other affected persons;

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain;

(v) complainant's recommendation as to sanction; ~~[and] or~~

(vi) in an informal disciplinary proceeding brought pursuant to Subsections 58-1-501(2)(c), 58-1-501(2) ~~[-or-]~~ (d), or ~~[Subsections]~~ R156-1-501(1) through (5):

(A) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;

(B) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;

(C) argument that a respondent was not adequately represented by counsel in a prior proceeding; and

(D) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not, in fact, true.

(~~[18]~~ 16) "Nondisciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-

401(1) or 58-1-401(2)(c) ~~[through (2)]~~ or (d).

(~~[19]~~17) "Peer committee[s]" mean an advisory peer committee[s] to a board[s] that is created by the legislature in Title 58, Occupations and Professions, or created by the Division under the authority of Subsection 58-1-203(1)(f).

(~~[20]~~18) "Probation" means disciplinary action placing terms and conditions upon a license;

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(~~[21]~~19) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.

(~~[22]~~20) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.

(~~[23]~~21) "Reinstate" or "reinstatement" means to:

(a) activate an expired license; or

(b) ~~[to]~~ restore a license ~~[which]~~ that is restricted~~[7]~~ as defined in Subsection (~~[26]~~24)(b), ~~[or is]~~ suspended, or ~~[placed]~~ on probation, to a less~~[er]~~ restrictive license or an active in good standing license.

(~~[24]~~22) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(~~[25]~~23) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (~~[25]~~24)(a), placed on a license issued to an applicant for licensure.

(~~[26]~~24) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(~~[27]~~25) "Revoke" or "revocation" means disciplinary action by the Division extinguishing a license.

(~~[28]~~26) "Suspend" or "suspension" means disciplinary action by the Division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(~~[29]~~27) "Surrender" means voluntary action by a licensee

giving back or returning to the Division in accordance with Section 58-1-306, all rights and privileges associated with a license issued to the licensee.

(~~[30]~~28) "Temporary license" or "temporary licensure" means a license issued by the Division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

(~~[31]~~29) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-501.

(~~[32]~~30) A "[W]arning or final disposition letter[s] that does[which-de] not constitute disciplinary action" as used in Subsection 58-1-108(3) means a letter[s] that does [which-de] not contain findings of fact or conclusions of law and [de]does not constitute a reprimand, but [which]that may address [any-or all]one or more of the following:

- (a) Division concerns;
- (b) allegations upon which those concerns are based;
- (c) potential for administrative or judicial action;
- [and]or
- (d) disposition of Division concerns.

R156-1-102a. Global Definitions of Levels of Supervision.

(1) In accordance with Subsection 58-1-106(1)(a), except[Except] as otherwise provided by statute or rule, [the]this section's global definitions of levels of supervision [herein-]shall apply to supervision terminology used in Title 58, Occupations and Professions, and this Title R156, and shall be referenced and used[_] to the extent practicable[_] in those statutes and rules to promote uniformity and consistency.

(2) Except as otherwise provided by statute or rule, [all]unlicensed personnel [specifically-]allowed to practice a regulated occupation or profession [are-required-to]shall practice under an appropriate level of supervision as defined [herein]in this section, as specified by the licensing act or licensing act rule governing [each]that occupation or profession.

(3) Except as otherwise provided by statute or rule, a[ll] license classification[s] required to practice under supervision shall practice under an appropriate level of supervision defined [herein]in this section, as specified by the licensing act or licensing act rule governing [each]that occupation or profession.

(4) Levels of supervision are defined as follows:

(a) "Direct supervision" and "immediate supervision" mean the supervising licensee is present and available for face-to-face communication with the person being supervised when and

where occupational or professional services are being provided.

(b) "Indirect supervision" means the supervising licensee:

(i) has given either written or verbal instructions to the person being supervised;

(ii) is present ~~[with]~~in the facility or located on the same premises where~~[in which]~~ the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by ~~[telephone, radio]~~electronic or ~~[some]~~other means, without regard to whether the supervising licensee is present in the facility or located on the same premises ~~[as]~~where the person being supervised is providing services; ~~[-and]~~

(iii) can provide any necessary consultation within a reasonable period of time; and

(iv) personal contact is routine.

(5) "Supervising licensee" means a licensee who has satisfied ~~[any]~~the requirements to act as a supervisor and has agreed to ~~[provide supervision of]~~supervise an unlicensed individual or a licensee in a classification or licensure status that requires supervision in accordance with ~~[the provisions of]~~ this chapter.

R156-1-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Occupations and Professions.

R156-1-106. Division - Duties, Functions, and Responsibilities.

~~[(1) In accordance with Subsection 58-1-106(2), the following responses to requests for lists of licensees may include multiple licensees per request and may include home telephone numbers, home addresses, and e-mail addresses, subject to the restriction that the addresses and telephone numbers shall only be used by a requester for purposes for which the requester is properly authorized.]~~

~~[(a) responses to requests from another governmental entity, government managed corporation, a political subdivision, the federal government, another state, or a not-for-profit regulatory association to which the Division is a member;~~

~~[(b) responses to requests from an occupational or~~

~~professional association, private continuing education organizations, trade union, university, or school, for purposes of education programs for licensees;~~

~~—— (c) responses to a party to a prelitigation proceeding convened by the Division under Title 78, Chapter 14;~~

~~—— (d) responses to universities, schools, or research facilities for the purposes of research;~~

~~—— (e) responses to requests from licensed health care facilities or third party credentialing services, for the purpose of verifying licensure status for issuing credentialing or reimbursement purposes; and~~

~~—— (f) responses to requests from a person preparing for, participating in, or responding to:~~

~~—— (i) a national, state or local emergency;~~

~~—— (ii) a public health emergency as defined in Section 26-23b-102; or~~

~~—— (iii) a declaration by the President of the United States or other federal official requesting public health related activities.~~

~~—— (2) In accordance with Subsection 58-1-106(3)(a) and (b), the Division may deny a request for an address or telephone number of a licensee to an individual who provides proper identification and the reason for the request, in writing, to the Division, if the reason for the request is deemed by the Division to constitute an unwarranted invasion of privacy or a threat to the public health, safety, and welfare.~~

~~—— (3) In accordance with Subsection 58-1-106(3)(c), proper identification of an individual who requests the address or telephone number of a licensee and the reason for the request, in writing, shall consist of the individual's name, mailing address, and daytime number, if available.]~~

(1) Each person requesting a licensee list pursuant to Section 58-1-106 and this section shall apply to the Division upon a form prescribed by the Division in which the requester:

(a) agrees to use the information received only for he purposes for which the requester is authorized;

(b) agrees to not disclose the information received to other persons;

(c) agrees not to use the information received for advertising or solicitation;

(d) attests that the requester shall adhere to the restrictions of this section; and

(e) acknowledges that the information received is a DOPL record under Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA), and that a violation of Section 58-1-106 or this section may subject the requester to criminal penalties and other remedies under GRAMA.

(2) In accordance with Subsections 58-1-106(1)(k) and 58-1-106(2), the Division may provide the following requesters a list of multiple licensees, and include licensee home telephone numbers, home addresses, or email addresses:

(a) a governmental entity, including another state or territory or its regulatory agency;

(b) a government-managed corporation;

(c) a political subdivision;

(d) the federal government;

(e) a party to a prelitigation proceeding convened by the Division under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act;

(f) a medical reserve corps, public safety authority, host entity, unified command, or other person concurrently engaged with a person described in Subsections (2)(a) through (d), for the sole purpose of preparing for, participating in, or responding to an emergency described in Section 58-1-307;

(g) a research university or regional university in the Utah System of Higher Education, for the sole purpose of conducting research; or

(h)(i) the following persons, for the sole purpose of providing licensees continuing education that meets the requirements of Title 58, Occupations and Professions, and this Title R156:

(A) an occupational or professional association;

(B) a non-profit regulatory association in which the Division holds membership;

(C) a private continuing education organization;

(D) a trade union; or

(E) a school of higher education and training such as a university, college, technical college, or career and technical school;

(ii) As used in Subsection (2)(g), "providing licensees continuing education" does not mean providing general information, learning opportunities, marketing, or outreach, including the following:

(A) volunteer opportunities, even if the volunteer would receive training and practical education;

(B) involvement in advocating for legislation;

(C) involvement in labor organizing issues;

(D) solicitations or recruitment for membership; or

(E) continuing education advertisements in a newsletter or other communication issued by the requester that also contains non-continuing education advertisements or other information, unless:

(I) the newsletter is issued by a Utah non-profit occupational or professional association or trade union; and

(II) the Division determines the newsletter's primary focus is communicating educational articles and information about continuing education, and only incidentally contains advertisements and solicitations for membership.

(3) (a) In accordance with Subsection 58-1-106(3)(c), proper identification of an individual who requests the address or telephone number of a licensee under Subsection 58-1-106(3)(a) shall consist of the individual's:

- (i) full legal name;
- (ii) mailing address;
- (iii) email address;
- (iv) daytime phone number; and
- (v) current positive identification.

(b) "Positive identification" for this section means:

(i) one of the following photo identification issued by a foreign or domestic government:

- (A) driver's license;
- (B) non-driver identification card;
- (C) passport;
- (D) military identification; or
- (E) concealed weapons permit; or

(ii) if the individual does not have government-issued identification, alternative evidence of the individual's identity as determined appropriate by the Division, if the Division documents on the requester's application how the individual was positively identified.

(c) In accordance with Subsections 58-1-106(3)(a) and (b), the Division may deny an individual's request for an address, email address, or telephone number of a licensee if the Division determines the reason for the request is an unwarranted invasion of privacy or a threat to the public health, safety, and welfare.

R156-1-107. Organization of Rules - Content, Applicability and Relationship of Rules.

(1) The rules and sections in this Title R156 shall, to the extent practicable, follow the numbering and organizational scheme of the chapters in Title 58, Occupations and Professions.

(2) Rule R156-1 shall contain general provisions applicable to the administration and enforcement of ~~[all]~~ occupations and professions regulated in Title 58, Occupations and Professions.

(3) The ~~[provisions of the]~~ other rules in this Title R156 shall contain specific or unique provisions applicable to particular occupations or professions.

(4) Specific rules in this Title R156 may supplement or alter Rule R156-1 unless expressly provided otherwise in Rule

R156-1.

R156-1-109. Presiding Officers.

In accordance with Subsection 63G-4-103(1)(h) ~~[7]~~ and Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise specified in writing by the Director, or for Title 58, Chapter 55, Utah Construction Trades Licensing Act, by the Construction Services Commission, the ~~[designation of]~~ following are designated as the Division's presiding officers ~~[is clarified or established as follows]~~:

(1)(a) The Division Regulatory and Compliance Officer is ~~[designated as]~~ the presiding officer for issuance of:

(i) notices of agency action; and
(ii) ~~[for issuance of]~~ notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action.

(b) If ~~[, provided that if]~~ the Division Regulatory and Compliance Officer is unable to ~~[so]~~ serve ~~[for any reason]~~, an alternate presiding officer ~~[replacement]~~ specified in writing by the Director shall serve ~~[is designated as the alternate presiding officer]~~.

(2) In accordance with Subsections 58-1-109(2) and 58-1-109(4) ~~[are clarified with regard to defaults as follows. Unless otherwise specified in writing by the Director, or with regard to Title 58, Chapter 55, by the Construction Services Commission,]~~ a ~~[d]~~ Department administrative law judge is ~~[designated as]~~ the presiding officer for entering an order of default against a party ~~[, for]~~ and conducting ~~[any]~~ further proceedings necessary to complete the adjudicative proceeding, ~~[and for]~~ including issuing a recommended order to the Director or Construction Services Commission ~~[, respectively,]~~ determining the discipline to be imposed, licensure action to be taken, relief to be granted, ~~[etc.]~~ or other appropriate matters.

(3) Except as provided in Subsection (4) ~~[or otherwise specified in writing by the Director]~~, the presiding officers for adjudicative proceedings before the Division are as follows:

(a) ~~[Director. —]~~ The Director ~~[shall be]~~ is the presiding officer for the following adjudicative proceedings, however resolved, including stipulated settlements and hearings:

(i) formal adjudicative proceedings under: ~~[described in Subsections R156-46b-201(1)(b), and R156-46b-201(2)(a) through (c), however resolved, including stipulated settlements and hearings; and]~~

(A) Subsection R156-46b-201(1)(b), request for declaratory order conducted as a formal adjudicative proceeding;

(B) Subsection R156-46b-201(2)(a), formal disciplinary proceeding for revocation, suspension, restricted licensure,

probationary licensure, cease and desist order or administrative fine not through citation, or public reprimand;

(C) Subsection R156-46b-201(2)(b), unilateral modification of disciplinary order; and

(D) Subsection R156-46b-201(2)(c), termination of diversion agreement or program contract under Section 58-4a-107; and

(ii) informal adjudicative proceedings under: [described in Subsections R156-46b-202(1)(g), (i), (l), (m), (o), (p), and (r), and R156-46b-202(2)(a), (b)(ii), (c), and (d), however resolved, including memoranda of understanding and stipulated settlements.]

(A) Subsection R156-46b-202(1)(d), payment of approved claim against the Residence Lien Recovery Fund;

(B) Subsection R156-46b-202(1)(e)(iii), approval or denial of request for modification of a disciplinary order;

(C) Subsection R156-46b-202(1)(e)(v), approval or denial of request for correction of other than procedural or clerical mistakes;

(D) Subsection R156-46b-202(1)(h), request for declaratory order conducted as an informal adjudicative proceeding;

(E) Subsection R156-46b-202(1)(i), disciplinary sanction imposed in a stipulation or memorandum of understanding with a licensure applicant;

(F) Subsection R156-46b-202(1)(j), other requests for agency action not designated as a formal adjudicative proceeding;

(G) Subsection R156-46b-202(2)(a), nondisciplinary proceeding that results in cancellation of licensure;

(H) Subsection R156-46b-202(2)(b)(ii), disciplinary proceeding against a controlled substance licensee;

(I) Subsection R156-46b-202(2)(c), disciplinary proceeding concerning violation of an order governing a license; and

(J) Subsection R156-46b-202(2)(d), disciplinary proceeding limited to Subsections 58-1-501(2)(c) or (d) or R156-1-501(1) through (5).

(b) [Bureau Managers or Program Coordinators. Except for Title 58, Chapter 55, the] The bureau manager or program coordinator over the occupation or profession or program involved [shall be] is the presiding officer for:

(i) formal adjudicative proceedings [described in] under Subsection R156-46b-201(1)(c), for [purposes of] determining [whether] if a request for a board of appeal is properly filed [as set forth in] under Subsections R156-15A-210(1) through (4); and

(ii) informal adjudicative proceedings [described in Subsections] under:

(A) Subsection R156-46b-202(1)(a) [~~through (d), (f), (h), (j), (n) and R156-46b-202(2)(b)(iii).~~], approval or denial of an application for initial licensure, renewal, reinstatement, inactive or emeritus status, tax credit certificate, or criminal history determination;

(B) Subsection R156-46b-202(1)(b), favorable or unfavorable criminal history determination;

(C) Subsection R156-46b-202(1)(e)(i), approval or denial of request to surrender licensure;

(D) Subsection R156-46b-202(1)(e)(iv), approval or denial of request for correction of procedural or clerical mistakes;

(E) Subsection R156-46b-202(2)(b)(iii), disciplinary proceeding against a contract security company or armored car company for failure to replace a qualifier;

(F) Subsection R156-46b-202(2)(b)(iv), disciplinary proceeding against a hunting guide or outfitter for unprofessional conduct under Subsections R156-79-502(12) or R156-79-502(14); and

(G) Subsection R156-46b-202(2)(e), disciplinary proceeding concerning evaluation or verification of documentation regarding renewal requirements.

(iii) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign an informal order in the technician's name [~~of the licensing technician or program technician provided~~] if:

(A) the bureau manager or program coordinator approves the wording in advance; and [~~wording of the order has been approved in advance by the bureau manager or program coordinator and provided~~]

(B) the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the [~~licensing technician's or program~~] technician's signature.

(c) [~~Citation Hearing Officer. The Division Regulatory and Compliance Officer or other citation hearing officer designated in writing by the Director shall be~~] A Department administrative law judge licensed in good standing with the Utah State Bar, or a Department administrative employee licensed in good standing with the Utah State Bar as designed by a Department administrative law judge, is the presiding officer for [~~the adjudicative proceeding described in~~] informal citation hearings under Subsection R156-46b-202(1)([~~k~~]g).

(d)(i) [~~Uniform Building Code Commission.~~] The Uniform Building Code Commission [~~shall be~~] is the presiding officer for [~~the~~] formal adjudicative proceedings [~~described in~~] under Subsection R156-46b-20[2]1(1)([~~e~~]c) for convening a board of appeal under Subsection 15A-1-207(3), [~~for~~] serving as fact finder at [~~any~~] the evidentiary hearing [~~associated with a board~~]

~~of appeal], and [for] entering the final order[associated with a board of appeal].~~

(ii) A[n] Department administrative law judge shall conduct the hearing as [perform the role] specified in Subsection 58-1-109(2).

~~(e) [Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer to serve as the factfinder for formal adjudicative proceedings involving the Residence Lien Recovery Fund.~~

~~(f) Residence Lien Recovery Fund Manager.] The Residence Lien Recovery Fund manager, bureau manager, or program coordinator designated in writing by the Director [shall be] is the presiding officer for [the] informal adjudicative proceedings [described in] under Subsection R156-46b-202(1)([q]c), for approval or denial of [an application for a tax credit certificate] claims against the Residence Lien Recovery Fund.~~

(f)(i) The Utah Professionals Health Program manager is the presiding officer for informal adjudicative proceedings under:

(A) Subsection R156-46b-202(1)(e)(ii), entry into and participation in the Utah Professionals Health Program; and

(B) Subsection R156-46b-202(1)(f), matters relating to the Utah Professionals Health Program that do not involve termination under Section 58-4a-107.

(ii) If the Utah Professionals Health Program manager is unable to serve, an alternate presiding officer specified in writing by the Director shall serve.

~~(4) [Unless otherwise specified in writing by the Construction Services Commission, the] The presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, Utah Construction Trades Licensing Act, are [established or clarified] as follows:~~

~~(a) [Commission.]~~
~~—] (i) (A) The Construction Services Commission [shall be] is the presiding officer for [all] adjudicative proceedings under Title 58, Chapter 55, Utah Construction Trades Licensing Act, however resolved including stipulated settlements and hearings, except as otherwise [delegated by the Commission in writing or as otherwise provided] specified in this rule[, provided, however, that all orders].~~

(B) Orders adopted by the Commission as [a] presiding officer shall require the concurrence of the Director.

(ii) [Unless otherwise specified in writing by the Construction Services Commission, the] The Construction Services Commission is [designated as] the presiding officer:

(A) for informal adjudicative proceedings [~~described in Subsections R156-46b-202(1)(1), (m), (o), (p), and (q), and R156-46b-202(2)(b)(i), (e), and (d), however resolved, including memoranda of understanding and stipulated settlements,~~] under:

(I) Subsection R156-46b-202(1)(e)(iii), approval or denial of request for modification of a disciplinary order;

(II) Subsection R156-46b-202(1)(e)(v), approval or denial of request for correction of other than procedural or clerical mistakes;

(III) Subsection R156-46b-202(1)(h), request for declaratory order conducted as an informal adjudicative proceeding;

(IV) Subsection R156-46b-202(1)(i), disciplinary sanctions imposed in a stipulation or memorandum of understanding with a licensure applicant;

(V) Subsection R156-46b-202(1)(j), other requests for agency action not designated as a formal adjudicative proceeding;

(VI) Subsection R156-46b-202(2)(b)(i), disciplinary proceedings against a contractor, plumber, electrician, or alarm company;

(VII) Subsection R156-46b-202(2)(c), disciplinary proceedings concerning violations of an order governing a license; and

(VIII) Subsection R156-46b-202(2)(d), disciplinary proceeding limited to Subsections 58-1-501(2)(c) or (d) or R156-1-501(1) through (5);

(B) to serve as fact finder and adopt orders in formal evidentiary hearings [~~associated with~~] for adjudicative proceedings involving persons licensed [as-] or required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(C) (I) to review recommended orders of a board, an administrative law judge, or other [~~designated~~] presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, and to adopt an order of its own[-]; and

(II) [~~In~~] in adopting its order, the Construction Services Commission may accept, modify or reject the recommended order.

(iii) [~~If the Construction Services Commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.~~

—(iv)— (A) Orders of the Construction Services Commission shall address [~~all~~] the issues before the Construction Services Commission and shall be based upon the record developed in an adjudicative proceeding conducted by the Construction Services

Commission.

(B) ~~[In cases in which]~~ If the Commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the Construction Services Commission shall consist of the findings of fact, conclusions of law, and recommended order submitted ~~[to the Commission]~~ by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(~~v~~iv)(A) The Construction Services Commission or its designee shall submit an adopted order~~s~~ to the ~~[d]~~Director for the Director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier.

(B) An adopted order ~~[shall be deemed]~~ is issued and ~~[constitute]~~ becomes a final order upon the concurrence of the Director.

(v~~i~~)(A) In accordance with Subsection 58-55-103(10), if the Director or the Director's designee refuses to concur in an adopted order~~[of the Construction Services Commission or its designee]~~, the Director or the Director's designee shall return the adopted order to the Construction Services Commission or its designee with the reasons ~~[set forth]~~ in writing~~[for refusing to concur]~~.

(B) The Construction Services Commission or its designee shall reconsider the returned adopted order and resubmit an adopted order to the Director or the Director's designee, whether or not modified, within 30 days of the date of the initial or subsequent return.

(C) The Director or the Director's designee shall consider the resubmitted ~~[Commission's resubmission of an]~~ adopted order and either concur rendering the order final, or refuse to concur and issue a final order, within 90 days of the date of the initial recommended order.

(D) ~~[Provided]~~ If the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the Construction Services Commission or its designee ~~[and]~~ with the Director or the Director's designee to resolve the reasons for the Director's refusal to concur in an adopted order.

(vi~~i~~) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.

(vii~~i~~) The final order issued by the Construction Services Commission and concurred in by the Director or the Director's designee, or nonconcurred in by the Director or the Director's ~~[D]~~designee~~[,]~~ and issued by the Director or the

Director's designee, may be appealed by filing a request for agency review with the Executive Director or ~~[the Director's]~~ designee within the Department.

(~~[ix]~~viii) The content of ~~[all]~~ orders shall comply with ~~[the requirements of Subsection]~~ Sections 63G-4-203(1), ~~[(i) and Sections]~~ 63G-4-208, and 63G-4-209.

(b) ~~[Director.]~~ The Director or the Director's designee is ~~[designated as]~~ the presiding officer for the concurrence role~~[, except where the Director or the Director's designee refuses to concur and issues the final order as provided by Subsection (a), on]~~ in disciplinary proceedings under Subsections R156-46b-202(2)(b)(i), R156-46b-202(2)(c), and R156-46b-202(2)(d) as required by Subsection 58-55-103(1)(b)(iv).

(c) ~~[Administrative Law Judge. Unless otherwise specified in writing by the Construction Services Commission, a]~~ A Department administrative law judge is ~~[designated as]~~ the presiding officer to conduct formal adjudicative proceedings before the Construction Services Commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) ~~[Bureau Manager. Unless otherwise specified in writing by the Construction Services Commission, the responsible]~~ The bureau manager is ~~[designated as]~~ the presiding officer ~~[for conducting]~~ to conduct informal adjudicative proceedings ~~[specified]~~ under:

(i) ~~[in]~~ Subsections R156-46b-202(1)(a) ~~[-through (d), (h), and (n)]~~ (i) through (1)(a)(iv), approval or denial of an application for initial licensure, renewal, reinstatement, inactive or emeritus status;

(ii) Subsection R156-46b-202(1)(a)(vi), approval or denial of an application for criminal history determination;

(iii) Subsection R156-46b-202(1)(b), favorable or unfavorable criminal history determination;

(iv) Subsection R156-46b-202(1)(e)(i), approval or denial of request to surrender licensure;

(v) Subsection R156-46b-202(1)(e)(iv), approval or denial of request for correction of procedural or clerical mistakes; and

(vi) Subsection R156-46b-202(2)(e), disciplinary proceeding concerning evaluation or verification of documentation regarding renewal requirements.

(e) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician ~~[provided]~~ if:

(i) the bureau manager approves the wording in advance; and ~~[of the order has been approved in advance by the bureau manager and provided]~~

(ii) the caption "FOR THE BUREAU MANAGER" immediately

precedes the licensing technician's signature.

(f) ~~[Plumbers Licensing Board.]~~ Except as ~~[set forth]~~ specified in Subsection (c) ~~[-or as otherwise specified in writing by the commission]~~, the Plumbers Licensing Board is ~~[designated as]~~ the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings ~~[associated with]~~ for adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

(g) ~~[Electricians Licensing Board.]~~ Except as ~~[set forth]~~ specified in Subsection (c) ~~[-or as otherwise specified in writing by the commission]~~, the Electricians Licensing Board is ~~[designated as]~~ the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings ~~[associated with]~~ for adjudicative proceedings involving persons licensed as or required to be licensed as electricians.

(h) ~~[Alarm System Security and Licensing Board.]~~ Except as ~~[set forth]~~ specified in Subsection (c) ~~[-or as otherwise specified in writing by the Commission]~~, the Alarm System Security and Licensing Board is ~~[designated as]~~ the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings ~~[associated with]~~ for adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

R156-1-110. Issuance of Investigative Subpoenas.

(1) (a) A~~[11]~~ request~~[s]~~ for a subpoena~~[s]~~ in ~~[conjunction with]~~ a Division investigation ~~[made]~~ pursuant to Subsection 58-1-106(1)(c) ~~[7]~~ shall be made in writing to the investigative subpoena authority and ~~[shall be]~~ accompanied by an original of the proposed subpoena.

(~~[a]~~)b) Each request ~~[Requests to the investigative subpoena authority]~~ shall contain adequate information to enable the subpoena authority to make a finding of sufficient need, including:

 (i) the factual basis for the request~~[7]~~;
 (ii) the relevance and necessity of the particular person~~[7]~~ and evidence~~[7 documents, etc.7]~~ to the investigation~~[7]~~; and

 (iii) an explanation of why the subpoena is directed to the ~~[particular]~~ person upon whom it is to be served.

(~~[b]~~)c) An approved subpoena ~~[Approved subpoenas]~~ shall be issued under the seal of the Division and the signature of the subpoena authority.

(2) The person who requests an investigative subpoena is

responsible for service of the subpoena.

(3)(a) Service may be made:

(i) on a person upon whom a summons may be served pursuant to the Utah Rules of Civil Procedure; and

(ii) personally or on the agent of the person being served.

(b) If a party is represented by an attorney, service shall be made on the attorney.

(4)(a) Service may be accomplished by hand delivery or by mail to the last known address of the intended recipient.

(b) Service by mail is complete upon mailing.

(c) Service may be accomplished by electronic means.

(d) Service by electronic means is complete on transmission if transmission is completed during normal business hours at the place receiving the service, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays; otherwise, service is complete on the next business day.

(5)(a) Each~~[—There shall appear on all]~~ investigative subpoena~~s~~ shall have a certificate of service.

(b) The certificate of service may be a separate form or may be stamped on the subpoena.

(c) The person serving the subpoena shall complete the certificate of service for both the served copy and the copy kept for the Division files.

(6) The investigative subpoena authority may quash or modify an investigative subpoena if it is shown to be unreasonable or oppressive.

(a) A motion to quash or modify an investigative subpoena shall be filed with and served upon the subpoena authority no later than ten days after service of the investigative subpoena.

(b) A response by the Division to a motion to quash or modify an investigative subpoena shall be filed with and served upon the subpoena authority no later than five business days after receipt of a motion to quash or modify an investigative subpoena.

(c) No final reply by the recipient of an investigative subpoena who files a motion to quash or modify shall be permitted.

R156-1-111. Qualifications for Tax Certificate - Definitions - Application Requirements.

(1) ~~[—In addition to the definitions in Title 58, Chapter 1, as used in Title 58, Chapter 1, or in this rule:—]~~

(a) "Psychiatrist" ~~[, as defined]~~ under Subsection 58-1-111(1)(d), ~~[is further defined to]~~ includes a licensed physician who is board eligible or board certified for a psychiatry

specialization recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (BOS) ~~[-]; and~~

(b) ~~[Under Subsection 58-1-111(1)(f)(ii), the definition of a "volunteer retired psychiatrist" is further defined to mean a physician or osteopathic physician licensed under Title 58, Chapter 81, Retired Volunteer Health Practitioner Act, who is previously or currently]~~ "previously or currently board certified in psychiatry" means board certified for a psychiatry specialization recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (BOS).

(2) An applicant for a tax credit certificate under Section 58-1-111 shall provide to the Division:

(a) the original application made available on the Division's website, containing the signed attestation of compliance; and

(b) ~~[any]~~ additional documentation that may be required by the Division to verify the applicant's representations made in the application.

R156-1-205. Peer or Advisory Committees - Executive Director to Appoint - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act ~~[-Compliance with]~~ and Utah Administrative Procedures Act - No ~~[Provision for]~~ Per Diem and Expenses.

(1) The executive director shall appoint the members of peer or advisory committees established under this Title 58, Occupations and Professions, or Title R156.

(2) (a) Except for ad hoc committees whose members shall be appointed on a case-by-case basis, the term of office of peer or advisory committee members shall be ~~[for]~~ four years.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that they ~~[the terms of committee members]~~ are staggered so that approximately half of the peer or advisory committee is appointed on ~~[every]~~ two year~~[s]~~ cycles.

(3) ~~[No]~~ A peer or advisory committee member may not serve more than two full consecutive terms, and ~~[no]~~ a member who ceases to serve may not serve again ~~[serve on the peer or advisory committee]~~ until after the expiration of two years from the date of cessation of service.

(4) (a) If a vacancy on a peer or advisory committee occurs, the executive director shall appoint a replacement to fill the unexpired term.

(b) After filling the unexpired term, the replacement may

be appointed for only one additional full term.

(5)(a) If a peer or advisory committee member fails or refuses to fulfill the responsibilities and duties of a peer or advisory committee member, including ~~[the]~~attendance at ~~[peer committee]~~meetings, the executive director may remove the peer or advisory committee member and replace the member in accordance with this section.

(b) After filling the unexpired term, the replacement may be appointed for only one additional full term.

(6) Committee meetings ~~[shall]~~may only be convened with the approval of the appropriate board and the concurrence of the Division.

(7) Unless otherwise approved by the Division, peer or advisory committee meetings shall be held in the building occupied by the Division.

(8) A majority of the peer or advisory committee members shall constitute a quorum and may act ~~[in]~~on behalf of the peer or advisory committee.

(9)(a) Peer or advisory committees shall annually designate one of their members to serve as chair~~[peer or advisory committee chairman]~~.

(b) The Division shall provide a Division employee to act as committee secretary to take minutes of committee meetings and to prepare committee correspondence.

(10) Peer or advisory committees shall comply with ~~[the procedures and requirements of]~~ Title 52, Chapter 4, Open and Public Meetings Act ~~[, in their meetings]~~.

(11) Peer or advisory committees shall comply with ~~[the procedures and requirements of]~~ Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

(12) Peer or advisory committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in peer or advisory committees business, except as otherwise provided in Title 58, Occupations and Professions, or Title R156.

R156-1-206. Emergency ~~[Adjudicative Proceeding]~~Review Committees - Appointment - Terms - Vacancies - Removal - Quorum - Chair~~[man]~~ and Secretary - Open and Public Meetings Act ~~[-]~~and Utah Administrative Procedures Act - Per Diem and Expenses.

(1) The ~~[chairman of the board]~~board chair for the profession of the person against whom an emergency adjudicative proceeding ~~[action]~~ is proposed under Sections 63G-4-502 and 58-1-108 may appoint the members of the emergency review committee~~[s]~~ on a case-by-case or period-of-time basis.

(2) With the exception of the appointment and removal of members and filling of vacancies by the ~~[chairman of a board]~~board chair, emergency review committees~~[, committees]~~ shall serve in accordance with Subsections R156-1-205(7), and (9) through (12).

R156-1-301. ~~[Application for Licensure]~~License Application - Filing Date - Applicable Requirements for Licensure - Issuance Date.

(1) The filing date for an application for licensure ~~[shall be]~~is the postmark date of the application or the date the application is received and date stamped by the Division, whichever is earlier.

(2) Except as otherwise provided by statute, rule, or order, the requirements for licensure ~~[applicable to an application for licensure shall be]~~are the requirements in effect on the filing date of the application.

(3) The issuance date for a license ~~[issued to an applicant for licensure shall be as follows:~~

~~——(a)——]~~is the date the approval is input into the Division's electronic licensure database~~[for applications submitted and processed manually; or~~

~~——(b)—— the date printed on the verification of renewal certificate for renewal applications submitted and processed electronically via the Division's Internet Renewal System]~~.

R156-1-301.7. Change of Information - Notification.

(1) Notification sent by email under Section 58-1-301.7 is complete on transmission if transmission is completed during normal business hours, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays, at the place receiving the notice; otherwise, notice is complete on the next business day.

(2) Notification by email may be accomplished by attachment to the email or in the body of the email, or both.

R156-1-302. Consideration of ~~[Good Moral Character,]~~Unlawful Conduct, Unprofessional Conduct, or Other Mental or Physical Condition.

(1) In accordance with Section 58-1-401, this~~[This]~~ section applies in circumstances where an applicant or licensee:

(a) is not automatically disqualified from licensure pursuant to statute~~[a statutory provision]~~; and

(b)(i) has ~~[history that reflects negatively on the person's moral character, including]~~past unlawful or unprofessional conduct; or

(ii) as described in Subsection 58-1-401(2)(d), may be

unable to practice the occupation or profession with reasonable skill and safety because of an illness, a substance use disorder or~~[has]~~ a mental or physical condition that, when considered with the duties and responsibilities of the license held or to be held, demonstrates a threat or potential threat to the public health, safety, or welfare.

(2) In a circumstance described in Subsection~~[Section]~~ (1), the following factors are relevant to a licensing decision:

(a) aggravating circumstances, as defined in Subsection R156-1-102(2);

(b) mitigating circumstances, as defined in Subsection R156-1-102(~~[17]~~15);

(c) the degree of risk to the public health, safety or welfare;

(d) the degree of risk that a conduct will be repeated;

(e) the degree of risk that a condition will continue;

(f) the magnitude of the conduct or condition as it relates to the harm or potential harm;

(g) the length of time since the last conduct or condition has occurred;

(h) the current criminal probationary or parole status of the applicant or licensee;

(i) the current administrative status of the applicant or licensee;

(j) results of previously submitted applications, for any regulated profession or occupation;

(k) results from any action, taken by any professional licensing agency, criminal or administrative agency, employer, practice monitoring group, entity or association;

(l) evidence presented indicating that restricting or monitoring an individual's practice, conditions or conduct can protect the public health, safety or welfare;

(m) psychological evaluations; or

(n) any other information the Division or the board reasonably believes may assist in evaluating the degree of threat or potential threat to the public health, safety, or welfare.

R156-1-303. Temporary Licenses in Declared Disaster or Emergency.

(1) In accordance with Section 53-2a-1203, a person~~[s]~~ who provides services under this exemption from licensure, shall within 30 days of entry file a notice with the Division ~~[as provided]~~ under Subsection 53-2a-1205(1) using forms posted on the Division website~~[internet site]~~.

(2) In accordance with Section 53-2a-1205 and Subsection 58-1-303(1), a person who provides services under the exemption

from licensure [~~as provided~~] in Section 53-2a-1203 for a declared disaster or emergency shall, after the disaster period ends and before continuing to provide services, meet [~~all~~] the normal requirements for [~~occupational or professional~~] licensure under [~~this title~~] Title 58, Occupations and Professions, unless:

(a) prior to practicing after the declared disaster the person is issued a temporary license under [~~the provisions of~~] Subsection 58-1-303(1)(c); or

(b) the person qualifies under another exemption from licensure.

R156-1-305. Inactive Licensure.

(1) In accordance with Section 58-1-305, [~~except as provided in Subsection (2),~~] a licensee whose license is listed in Subsection (2) may [~~not~~] apply for inactive licensure status as provided in this section.

(2) The following licenses issued under Title 58 that are active in good standing may be placed on inactive licensure status:

- (a) architect;
- (b) audiologist;
- (c) certified public accountant emeritus;
- (d) state certified court reporter;
- (e) certified social worker;
- (f) chiropractic physician;
- (g) clinical mental health counselor;
- (h) clinical social worker;
- (i) contractor;
- (j) deception detection examiner;
- (k) deception detection intern;
- (l) dental hygienist;
- (m) dentist;
- (n) dispensing medical practitioner - advanced practice registered nurse;
- (o) dispensing medical practitioner - physician and surgeon;
- (p) dispensing medical practitioner - physician assistant;
- (q) dispensing medical practitioner - osteopathic physician and surgeon;
- (r) dispensing medical practitioner - optometrist;
- (s) dispensing medical practitioner - clinic pharmacy;
- (t) genetic counselor;
- (u) health facility administrator;
- (v) hearing instrument specialist;
- (w) landscape architect;
- (x) licensed advanced substance use disorder counselor;
- (y) marriage and family therapist;

- (z) naturopath[~~/~~]-naturopathic physician;
- (aa) optometrist;
- (bb) osteopathic physician and surgeon;
- (cc) pharmacist;
- (dd) pharmacy technician;
- (ee) physician assistant;
- (ff) physician and surgeon;
- (gg) podiatric physician;
- (hh) private probation provider;
- (ii) professional engineer;
- (jj) professional land surveyor;
- (kk) professional structural engineer;
- (ll) psychologist;
- (mm) radiology practical technician;
- (nn) radiologic technologist;
- (oo) security personnel;
- (pp) speech-language pathologist;
- (qq) substance use disorder counselor; [~~and~~]
- (rr) veterinarian; and
- (ss) state certified veterinary technician.

(3)(a) A licensee requesting~~[Applicants for]~~ inactive licensure shall submit a verified application in a form prescribed by ~~[apply to the Division in writing upon forms available from]~~ the Division together with:

(i) ~~[. Each completed application shall contain documentation [of] that the applicant meets the requirements for inactive licensure[, shall be verified by the applicant, and shall be accompanied by]; and~~

(ii) the appropriate fee.

([4]b) If the licensee meets the~~[all]~~ requirements ~~[are met]~~ for inactive licensure, the Division shall place the license on inactive status.

([5]4) A license may remain on inactive status indefinitely except as otherwise provided in Title 58, Occupations or Professions or this Title R156~~[rules which implement Title 58]~~.

([6]5) An inactive licensee may ~~[be activated]~~ activate their license by submitting a verified application for activation in a form prescribed by the Division together with: ~~[requesting activation in writing upon forms available from the Division. Unless otherwise provided in Title 58 or rules which implement Title 58, each reactivation application shall contain documentation that the applicant meets current renewal requirements, shall be verified by the applicant, and shall be accompanied by]~~

(a) the appropriate fee~~[.]; and~~

(b) unless otherwise provided in Title 58, Occupations and

Professions or this Title R156, documentation that the inactive licensee meets current renewal requirements.

([7]6) An inactive licensee whose license is activated during the last 12 months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their activated license.

([8]7) A Controlled Substance license may be placed on inactive status if attached to a primary license listed in Subsection R156-1-305(2) and the primary license is placed on inactive status.

R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with [the] Subsection 58-1-308(1):

TABLE
RENEWAL DATES

Acupuncturist	May 31	even years
Advanced Practice Registered Nurse	January 31	even years
Advanced Practice Registered Nurse-CRNA	January 31	even years
Architect	May 31	even years
Athlete Agent	September 30	even years
Athletic Trainer	May 31	odd years
Audiologist	May 31	odd years
Barber	September 30	odd years
Barber Apprentice	September 30	odd years
Barber School	September 30	odd years
Behavior Analyst and Assistant Behavior Analyst	September 30	even years
Behavior Specialist and Assistant Behavior Specialist	September 30	even years
Building Inspector	November 30	odd years
Burglar Alarm Security	March 31	odd years
C.P.A. Firm	December 31	even years
Certified Court Reporter	May 31	even years
Certified Dietitian	September 30	even years
Certified Medical Language Interpreter	March 31	odd years
Certified Nurse Midwife	January 31	even years
Certified Public Accountant	December 31	even years
Certified Social Worker	September 30	even years
Chiropractic Physician	May 31	even years
Clinical Mental Health Counselor	September 30	even years

Clinical Social Worker	September 30	even years
Contractor	November 30	odd years
Controlled Substance License renewal	Attached to primary license	
Controlled Substance Precursor	May 31	odd years
Controlled Substance Handler	September 30	odd years
Cosmetologist/Barber	September 30	odd years
Cosmetologist/Barber Apprentice	September 30	odd years
Cosmetology/Barber School	September 30	odd years
Deception Detection	November 30	even years
Deception Detection Examiner,		
Deception Detection Intern,		
Deception Detection Administrator		
Dental Hygienist	May 31	even years
Dentist	May 31	even years
Direct-entry Midwife	September 30	odd years
Dispensing Medical Practitioner		
Advanced Practice Registered Nurse,		
Optometrist, Osteopathic Physician		
and Surgeon, Physician and Surgeon,		
Physician Assistant	September 30	odd years
Dispensing Medical Practitioner		
Clinic Pharmacy	September 30	odd years
Electrician		
Apprentice, Journeyman, Master,		
Residential Journeyman,		
Residential Master	November 30	even years
Electrologist	September 30	odd years
Electrology School	September 30	odd years
Elevator Mechanic	November 30	even years
Environmental Health Scientist	May 31	odd years
Esthetician	September 30	odd years
Esthetician Apprentice	September 30	odd years
Esthetics School	September 30	odd years
Factory Built Housing Dealer	September 30	even years
Funeral Service Director	May 31	even years
Funeral Service Establishment	May 31	even years
Genetic Counselor	September 30	even years
Hair Designer	September 30	odd years
Hair Designer Instructor	September 30	odd years
Hair Designer School	September 30	odd years
Health Facility Administrator	May 31	odd years
Hearing Instrument Specialist	September 30	even years
Internet Facilitator	September 30	odd years
Landscape Architect	May 31	even years
Licensed Advanced Substance		
Use Disorder Counselor	May 31	odd years

Licensed Practical Nurse	January 31	even years
Licensed Substance	May 31	odd years
Use Disorder Counselor		
Marriage and Family Therapist	September 30	even years
Massage Apprentice	May 31	odd years
Massage Therapist	May 31	odd years
Master Esthetician	September 30	odd years
Master Esthetician Apprentice	September 30	odd years
Medication Aide Certified	March 31	odd years
Music Therapist	March 31	odd years
Nail Technologist	September 30	odd years
Nail Technologist Apprentice	September 30	odd years
Nail Technology School	September 30	odd years

Naturopath/Naturopathic Physician	May 31	even years
Occupational Therapist	May 31	odd years
Occupational Therapy Assistant	May 31	odd years
Optometrist	September 30	even years
Osteopathic Physician and Surgeon, Online Prescriber, Restricted Associate Osteopathic Physician	May 31	even years
Outfitter[/] and Hunting Guide	May 31	even years
Pharmacy Class A-B-C-D-E, Online Contract Pharmacy	September 30	odd years
Pharmacist	September 30	odd years
Pharmacy Technician	September 30	odd years
Physical Therapist	May 31	odd years
Physical Therapist Assistant	May 31	odd years
Physician Assistant	May 31	even years
Physician and Surgeon, Online Prescriber, Restricted Associate Physician	January 31	even years
Plumber		
Apprentice, Journeyman, Master, Residential Master, Residential Journeyman	November 30	even years
Podiatric Physician	September 30	even years
Pre Need Funeral Arrangement		
Sales Agent	May 31	even years
Private Probation Provider	May 31	odd years
Professional Engineer	March 31	odd years
Professional Geologist	March 31	odd years
Professional Land Surveyor	March 31	odd years
Professional Structural Engineer	March 31	odd years
Psychologist	September 30	even years
Radiologic Technologist, Radiology Practical Technician	May 31	odd years
Radiologist Assistant		
Recreational Therapy		
Therapeutic Recreation Technician, Therapeutic Recreation Specialist, Master Therapeutic Recreation Specialist	May 31	odd years
Registered Nurse	January 31	odd years
Respiratory Care Practitioner	September 30	even years
Security Personnel	November 30	even years
Social Service Worker	September 30	even years
Speech-Language Pathologist	May 31	odd years
State Certified Commercial Interior Designer	March 31	odd years
State Certified Court Reporter	May 31	even years
State Certified Veterinary Technician	September 30	even years

Veterinarian

September 30 even years

Vocational Rehabilitation Counselor March 31 odd years

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

(a) Associate Clinical Mental Health Counselor licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the [B]board that the licensee is making reasonable progress ~~[is being made]~~ toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(b) Associate Marriage and Family Therapist licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the board that the licensee is making reasonable progress ~~[is being made]~~ toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(c) Certified Advanced Substance Use Disorder Counselor licenses shall be issued for a period of four years and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the [B]board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

(d) Certified Advanced Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(e) (i) Certified Medical Language Interpreter Tier 1 and 2 licenses shall be issued for a period of three years, and may be renewed.

(ii) The initial renewal date of March 31, 2017, is established for these license classifications, subject to ~~[the provisions of]~~ Subsection R156-1-308c([7]5) to establish the length of the initial license period.

(f) Certified Substance Use Disorder Counselor licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the [B]board that the licensee is making reasonable progress ~~[is being made]~~ toward completing the required hours of supervised experience necessary for the next level of licensure.

(g) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(h) Certified Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed, whichever occurs first.

(i) (A) Pursuant to Subsections 58-9-303(1) and (2), Funeral Service Intern licenses shall be issued for a two year term, and may be ~~[extended]~~ issued for [an]one additional two year term if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the board that the licensee is making reasonable progress ~~[is being made]~~

]toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(B) If before the expiration of the additional two-year term the licensee presents satisfactory evidence to the Division and the board that the licensee is still making reasonable progress towards licensure but a circumstance of hardship arose beyond the licensee's control to prevent the completion of the licensure process, the Division may extend that term for a period not to exceed two years.

(j) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the [B]board that the licensee is making reasonable progress ~~[is being made]~~ toward passing the qualifying examination, but a circumstance arose beyond the licensee's control ~~[of the]~~ licensee, to prevent the completion of the examination ~~[process]~~.

(k) Pharmacy technician trainee licenses shall be issued for a period of two years, and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the [B]board that the licensee is making reasonable progress ~~[is being made]~~ toward completing the requirements necessary for the next level of licensure.

(l) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the Division ~~[and]~~ in collaboration with the board that the licensee is making reasonable progress ~~[is being made]~~ toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure~~[+]~~, but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(m) Type I Foreign Trained Physician-Educator licenses ~~[will]~~ shall be issued initially for a one-year term and thereafter may be renewed on two year cycles ~~[every two years following issuance]~~.

(n) Type II Foreign Trained Physician-Educator licenses ~~[will]~~ shall be issued initially for ~~[an annual basis]~~ a one-year term and ~~[thereafter]~~ may be renewed annually up to four times ~~[following issuance]~~ if the licensee continues to satisfy the requirements ~~[described]~~ in Subsection 58-67-302.7(3) and completes the ~~[required]~~ continuing education requirements ~~[established under]~~ in Section 58-67-303.

R156-1-308b. Renewal Periods - Adjustment of Renewal Fees for an Extended or Shortened Renewal Period.

(1) Except as otherwise provided by statute or as required to establish or reestablish a renewal period, each renewal period shall be for a period of two years.

(2) The renewal fee for a renewal period ~~[which]~~ that is extended or shortened by more than one month to establish or reestablish a renewal period ~~[shall]~~ may be increased or decreased proportionately.

R156-1-308c. Renewal of Licensure Procedures.

In accordance with Subsection 58-1-308(3), the ~~[The]~~ procedures for renewal of licensure shall be as follows:

(1) The Division shall send a renewal notice to each licensee at

least 60 days prior to the expiration date shown on the licensee's license. ~~[The notice shall include directions for the licensee to renew the license via the Division's website.]~~

(2) ~~[Except as provided in Subsection(4),]~~ The Division shall send a renewal notice ~~[s shall be sent by]:~~

(a) by mail deposited in the post office with postage prepaid, addressed to the [last mailing address shown on the Division's automated license system] most recent mailing address provided to the Division by the licensee; or

(b) by email sent to the most recent email address provided to the Division by the licensee.

(3) ~~In accordance with Subsection 58-1-301.7([1]2), [each licensee is required to maintain a current mailing address with the Division. In accordance with Subsection 58-1-301.7(2), mailing to the last]~~ a notification sent to the most recent mailing address or email address provided to the Division by the licensee [mailing address furnished to the Division] constitutes legal notice.

(4) ~~[If a licensee has authorized the Division to send a renewal notice by email, a renewal notice may be sent by email to the last email address shown on the Division's automated license system. If selected as the exclusive method of receipt of renewal notices, such mailing shall constitute legal notice. It shall be the duty and responsibility of each licensee who authorizes the Division to send a renewal notice by email to maintain a current email address with the Division.]~~

~~(5) Renewal notices]~~ Each renewal notice shall:

(a) include directions for the licensee to renew the license via the Division's website;

(b) [provide] notify the licensee that the renewal requirements are outlined in the online renewal process, and that each licensee is required to document or certify that the licensee meets the renewal requirements prior to renewal; and

(c) notify the ~~[~~

~~(6) Renewal notices shall advise each]~~ licensee that a license that is not renewed prior to the expiration date shown on the license automatically expires, and that any continued practice without a license constitutes a criminal offense under Subsection 58-1-501(1)(a).

~~([7]5)~~ A licensee [Licensees] licensed during the last 12 months of a renewal cycle shall be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew the [i.e.] license.

R156-1-308d. Waiver of Continuing Education Requirements - Credit for Volunteer Service.

(1)(a) In accordance with Subsection 58-1-203(1)(g), a licensee may request a waiver of a [ny] continuing education requirement [established] under this title, or an extension of time to complete any] requirement, [on the basis that] if the licensee was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, [etc] or other reasonable cause.

(b) A [request must be submitted] licensee shall submit the request no later than the deadline for completing [any] the continuing education

requirement.

(c) A licensee submitting a request has the burden of proof and ~~[must]~~ shall document the reason for the request to the satisfaction of the Division.

(d) A request shall include the beginning and ending dates during which the licensee was unable to complete the continuing education requirement and a detailed explanation of the reason that includes: ~~[why. The explanation shall include]~~

- (i) the extent and duration of the impediment ~~[]~~;
- (ii) the extent to which the licensee continued to be engaged in practice of ~~[his]~~ the licensee's profession ~~[]~~;
- (iii) the nature of the medical condition ~~[]~~;
- (iv) the location and nature of the humanitarian services ~~[]~~;
- (v) the geographical area where continuing education ~~[is]~~ was not available ~~[, etc.]~~; and
- (vi) other relevant information.

(e) The Division may require that a specified number of continuing education hours, courses, or both, be obtained prior to reentering the practice of the profession or within a specified period of time after reentering the practice of the profession, as recommended by the appropriate board, ~~[in order]~~ to assure competent practice.

~~(f) (i) A licensee who receives~~ ~~[While a licensee may receive]~~ a waiver from meeting the minimum continuing education requirements ~~[, the licensee]~~ shall not be exempted from ~~[the requirements of]~~ Subsection 58-1-501(2)(i), which requires that the licensee provide services within the competency, abilities, and education of the licensee.

(ii) If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee limiting practice to areas in which the licensee has the required competency, abilities, and education.

(2)(a) In accordance with Subsections 58-1-203(1)(g) and 58-55-302.5(2)(e)(i), the Division may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the review and development of licensing exams for the licensee's profession.

(b) Subject to specific limitations established by rule by the Division ~~[]~~ in collaboration with a licensing board ~~[]~~ or the Construction Services Commission, this volunteer continuing education credit shall:

(i) apply to the license period or periods during which the volunteer service was provided;

(ii) be granted on a 1:1 ratio, meaning that for each hour of attendance, the licensee may receive one hour of credit;

(iii) be ~~[deemed]~~ "core," ~~[]~~ "classroom," ~~[]~~ or "live" credit, regardless of whether the licensee attended meetings in person or electronically; and

(iv) at the licensee's discretion, the whole ~~[all]~~ or part of the credit hours may be counted towards ~~[any]~~ law or ethics continuing education requirements.

(c) The licensee shall ~~[be responsible for maintaining]~~ maintain information with respect to the licensee's volunteer services to demonstrate the services meet the requirements of this subsection.

(3) In accordance with Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education

requirements by providing volunteer services at a qualified location, within the scope of the licensee's license, earning one hour of continuing education credit for ~~[every]~~each four documented hour[s] accrual of volunteer services.

R156-1-308e. Automatic Expiration of Licensure Upon Dissolution of Licensee.

~~[(1) A license that automatically expires prior to the expiration date shown on the license due to the dissolution of the licensee's registration with the Division of Corporations, with the registration thereafter being retroactively reinstated pursuant to Section 16-10a-1422, shall:]~~

Under Subsection 58-1-308(2), if a dissolved entity's existence has been reinstated prior to the expiration date shown upon the entity's expired license, and the entity meets the qualifications for licensure:

(1) if the entity submits its application for reinstatement
~~[(a) upon written application for reinstatement of licensure submitted]~~ prior to the expiration date shown on the license, the license shall be retroactively reinstated to the date of expiration of licensure;
and

[(b)2) if the entity submits its application for reinstatement~~[upon written application for reinstatement submitted]~~ after the expiration date shown on the ~~[current]~~license, the license shall be reinstated on the effective date of the approval of the application for reinstatement~~[rather than relating back retroactively to the date of expiration of licensure]~~.

R156-1-308f. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal of Licensure During Adjudicative Proceedings - Conditional Initial, Renewal, or Reinstatement Licensure During Audit or Investigation.

(1) ~~[When]~~If an initial, renewal, or reinstatement applicant under S~~[ubs]~~ections 58-1-301~~[(2) through (3)]~~ or 58-1-308~~[(5) or (6)(b)]~~ is selected for audit, ~~[is]~~under investigation, or ~~[is]~~pending inspection, the Division may conditionally issue ~~[an]~~the initial license ~~[to an applicant for initial licensure,]~~ or conditionally renew or reinstate the license ~~[of an applicant]~~ pending the completion of the audit, investigation or inspection.

(2) The undetermined completion of a referenced audit, investigation or inspection, rather than the established expiration date, shall be indicated as the expiration date of a conditionally issued, renewed, or reinstated license.

(3) A conditional issuance, renewal, or reinstatement ~~[shall]~~is not ~~[constitute]~~an adverse licensure action.

(4) Upon completion of the audit, investigation, or inspection, the Division shall notify the ~~[initial license, renewal, or reinstatement]~~applicant ~~[whether]~~if the applicant's license is unconditionally issued, renewed, reinstated, denied, or partially denied or reinstated.

(5) A notice of unconditional denial or partial denial of licensure ~~[to an applicant the Division conditionally licensed, renewed, or reinstated]~~ shall include~~[-the following]:~~

(a) ~~[that the applicant's unconditional initial issuance, renewal,~~

~~or reinstatement of licensure is denied or partially denied and]~~ the basis for ~~[such]~~ action;

(b) the Division's file or other reference number of the audit or investigation; and

(c) notice that the action~~[denial or partial denial of unconditional initial licensure, renewal, or reinstatement of licensure]~~ is subject to agency review, and ~~[a description of]~~ how and when the applicant may request agency review~~[such review may be requested]~~.

R156-1-308g. Reinstatement of Licensure ~~[which]~~that was Active and in Good Standing at the Time of Expiration of Licensure - Requirements.

The following requirements shall apply to reinstatement of licensure ~~[which]~~that was active and in good standing at the time of expiration of licensure:

(1) ~~[In accordance with]~~ Under Subsection 58-1-308(5), if the filing date of an application for reinstatement is ~~[received by the Division]~~ between the date of the expiration of the license and 30 days after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form ~~[as]~~ furnished by the Division demonstrating compliance with requirements and ~~[or]~~ conditions of license renewal; and

(b) pay the ~~[established]~~ license renewal fee and a late fee.

(2) ~~[In accordance with]~~ Under Subsection 58-1-308(5), if the filing date of an application for reinstatement is ~~[received by the Division]~~ between 31 days after the expiration of the license and two years after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form ~~[as]~~ furnished by the Division demonstrating compliance with requirements and ~~[or]~~ conditions of license renewal; and

(b) pay the ~~[established]~~ license renewal fee and reinstatement fee.

(3) ~~[In accordance with]~~ Under Subsection 58-1-308(6) ~~[(a)]~~, if the filing date of an application for reinstatement is ~~[received by the Division]~~ more than two years after the date the license expired: ~~[and the applicant has not been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States during the time the license was expired, the]~~

(a) if the applicant has not been active in the licensed occupation or profession as described in Subsection 58-1-308(6) (b) 308k, the applicant shall:

[(a)i) submit an application for licensure complete with [all] supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets [all] current qualifications for licensure; and

[(b)ii) [provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to engage in the occupation or profession for which reinstatement of licensure is requested; and

[(c)] pay the [established] license fee for a new applicant for licensure [-]; or

(b) if the [

~~(4) In accordance with Subsection 58-1-308(6)(b), if an application for reinstatement is received by the Division more than two years after the date the license expired but the~~ applicant has been active in the licensed occupation or profession as described in Subsection 58-1-308(6)(b), the applicant shall:~~[while in the full time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States shall:]~~

(~~[a]~~i) provide documentation that the applicant has continuously, since the expiration of the applicant's license in Utah, been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States;

(~~[b]~~ii) provide documentation that the applicant has completed or is in compliance with any renewal qualifications;

(~~[e]~~iii) provide documentation that the applicant's application was submitted within six months after reestablishing domicile within Utah or terminating full-time government service; and

(~~[d]~~iv) pay the ~~[established]~~license renewal fee and the reinstatement fee.

R156-1-308h. Reinstatement of Restricted, Suspended, or Probationary Licensure During Term of Restriction, Suspension, or Probation - Requirements.

(1) Reinstatement of restricted, suspended, or probationary licensure during the term of limitation, suspension, or probation shall be in accordance with the disciplinary order ~~[which]~~that imposed the discipline.

(2) Unless otherwise specified in a disciplinary order imposing restriction, suspension, or probation of licensure, the disciplined licensee may, at reasonable intervals during the term of the disciplinary order, petition for reinstatement of licensure.

(3) A petition ~~[Petitions]~~ for reinstatement of licensure during the term of a disciplinary order imposing restriction, suspension, or probation, shall be treated as a request to modify the terms of the disciplinary order, not as an application for licensure.

R156-1-308i. Reinstatement of Restricted, Suspended, or Probationary Licensure After the Specified Term of Suspension of the License or After the Expiration of Licensure in a Restricted, Suspended or Probationary Status - Requirements.

Unless otherwise provided by a disciplinary order, an applicant who applies for reinstatement of a license after the specified term of suspension of the license or after the expiration of the license in a restricted, suspended or probationary status shall:

(1) submit an application for licensure complete with ~~[all]~~ supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets ~~[all]~~ current qualifications for licensure and compliance with requirements and conditions of license reinstatement;

(2) pay the ~~[established]~~license renewal fee and the reinstatement fee;

(3) provide information requested by the Division and board to

clearly demonstrate the applicant is currently competent to be reinstated to engage in the occupation or profession~~[-for which the applicant was suspended, restricted, or placed on probation];~~ and

(4) pay any fines or citations owed to the Division~~[-prior to the expiration of license]~~.

R156-1-308j. Relicensure Following Revocation of Licensure - Requirements.

An applicant for relicensure following revocation of licensure shall:

(1) submit an application for licensure complete with ~~[all]~~ supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets ~~[all]~~ current qualifications for licensure and compliance with requirements and~~[/or]~~ conditions of license reinstatement;

(2) pay the ~~[established]~~ license fee for a new applicant for licensure; and

(3) provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession~~[-for which the applicant was revoked]~~.

R156-1-308k. Relicensure Following Surrender of Licensure - Requirements.

The following requirements shall apply to relicensure applications following the surrender of licensure:

(1) An applicant who surrendered a license that was active and in good standing at the time it was surrendered shall meet the requirements for licensure ~~[listed]~~ in Sections R156-1-308a through R156-1-308l.

(2) An applicant who surrendered a license while the license was active but not in good standing as evidenced by the written agreement supporting the surrender of license shall:

(a) submit an application for licensure complete with ~~[all]~~ supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and~~[/or]~~ conditions of license reinstatement;

(b) pay the ~~[established]~~ license fee for a new applicant for licensure;

(c) provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession~~[-for which the applicant was surrendered]~~; and

(d) pay any fines or citations owed to the Division~~[-prior to the surrender of license]~~.

R156-1-310. Application for Division Determination Regarding Criminal Conviction.

The application procedures for a Division determination pursuant to Section 58-1-310 are clarified and established as follows:

(1) An individual applying for a determination shall submit the Application for Criminal History Determination form made available on the Division's website, containing a signed attestation and release.

(2) An individual shall submit a separate application for criminal

history determination with processing fee for each ~~[occupational or professional]~~ license that the individual is interested in seeking.

(3) Pursuant to Subsection 58-1-310(2), the individual's complete criminal conviction history shall include:

(a) criminal convictions, pleas of nolo contendere, and pleas of guilty or nolo contendere ~~[which]~~ that are held in abeyance pending the successful completion of probation; and

(b) current restrictions from possession, purchase, transfer, or ownership of a firearm or ammunition.

(4) Pursuant to Subsection 58-1-310(2)(e), the individual shall provide any additional documentation that may be required by the Division to verify or evaluate the individual's representations made in their application.

(5) A determination shall be based solely on the information contained in the individual's application and supporting documents.

(6) ~~[An individual whose application has been denied as incomplete, or who has received an unfavorable determination that their criminal record would disqualify them from obtaining the license, may submit a request for agency review to the executive director within 30 days of the date of issuance of the denial or of the unfavorable determination.]~~ Agency review is not available for a Division order or determination for an application filed under Section 58-1-310.

~~R156-1-404a. Diversion Advisory Committees Created.~~

~~(1) There are created diversion advisory committees of at least three members for the professions regulated under Title 58. The diversion committees are not required to be impaneled by the director until the need for the diversion committee arises. Diversion committees may be appointed with representatives from like professions providing a multi-disciplinary committee.~~

~~(2) Committee members are appointed by and serve at the pleasure of the director.~~

~~(3) A majority of the diversion committee members shall constitute a quorum and may act on behalf of the diversion committee.~~

~~(4) Diversion committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in diversion committees business.~~

~~R156-1-404b. Diversion Committees Duties.~~

~~The duties of diversion committees shall include:~~

~~(1) reviewing the details of the information regarding licensees referred to the diversion committee for possible diversion, interviewing the licensees, and recommending to the director whether the licensees meet the qualifications for diversion and if so whether the licensees should be considered for diversion;~~

~~(2) recommending to the director terms and conditions to be included in diversion agreements;~~

~~(3) supervising compliance with all terms and conditions of diversion agreements;~~

~~(4) advising the director at the conclusion of a licensee's diversion program whether the licensee has completed the terms of the~~

~~licensee's diversion agreement; and~~

~~(5) establishing and maintaining continuing quality review of the programs of professional associations and/or private organizations to which licensees approved for diversion may enroll for the purpose of education, rehabilitation or any other purpose agreed to in the terms of a diversion agreement.~~

~~R156-1-404e. Diversion Eligible Offenses.~~

~~In accordance with Subsection 58-1-404(4), the unprofessional conduct which may be subject to diversion is set forth in Subsections 58-1-501(2)(e) and (f).~~

~~R156-1-404d. Diversion Procedures.~~

~~(1) No later than 60 days following the referral of a licensee to the diversion committee for possible diversion, diversion committees shall complete the duties described in Subsection R156-1-404b(1) and (2).~~

~~(2) Following the completion of diversion committee duties, the Division shall prepare and serve upon the licensee a proposed diversion agreement. The licensee shall have a period of time determined by the Division not to exceed 30 days from the service of the proposed diversion agreement, to negotiate a final diversion agreement with the director. The final diversion agreement shall comply with Subsection 58-1-404.~~

~~(3) If a final diversion agreement is not reached with the director within 30 days from service of the proposed diversion agreement, or if the director finds that the licensee does not meet the qualifications for diversion, the Division shall pursue appropriate disciplinary action against the licensee in accordance with Section 58-1-108.~~

~~(4) In accordance with Subsection 58-1-404(5), a licensee may be represented, at the licensee's discretion and expense, by legal counsel during negotiations for diversion, at the time of execution of the diversion agreement, and at any hearing before the director relating to a diversion program.~~

~~R156-1-404e. Diversion Agreements for Rehabilitation, Education or Other Similar Services or Coordination of Services.~~

~~(1) The Division may enter into agreements with professional or occupational organizations or associations, education institutions or organizations, testing agencies, health care facilities, health care practitioners, government agencies or other persons or organizations for the purpose of providing rehabilitation, education or any other services necessary to facilitate an effective completion of a diversion program for a licensee.~~

~~(2) The Division may enter into agreements with impaired person programs to coordinate efforts in rehabilitating and educating impaired professionals.~~

~~(3) Agreements shall be in writing and shall set forth terms and conditions necessary to permit each party to properly fulfill its duties and obligations thereunder. Agreements shall address the circumstances and conditions under which information concerning the impaired licensee will be shared with the Division.~~

~~(4) The cost of administering agreements and providing the services thereunder shall be borne by the licensee benefiting from the services.~~

~~Fees paid by the licensee shall be reasonable and shall be in proportion to the value of the service provided. Payments of fees shall be a condition of completing the program of diversion.~~

~~(5) In selecting parties with whom the Division shall enter agreements under this section, the Division shall ensure the parties are competent to provide the required services. The Division may limit the number of parties providing a particular service within the limits or demands for the service to permit the responsible diversion committee to conduct quality review of the programs given the committee's limited resources.]~~

R156-1-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress, or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;

(2) practicing a regulated occupation or profession in, through, or with a limited liability company ~~[which]~~that has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;

(3) practicing a regulated occupation or profession in, through, or with a limited partnership ~~[which]~~that has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;

(4) practicing a regulated occupation or profession in, through, or with a professional corporation ~~[which]~~that has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation;

(5) using a DBA (doing business as name) ~~[which]~~that has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing;

(6) failing, as a prescribing practitioner, to follow the ~~["Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004, established by the Federation of State Medical Boards, which is hereby adopted and incorporated by reference;~~

~~(7) failing, as a prescribing practitioner, to follow the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", July 2013,]~~ "Guidelines for the Chronic Use of Opioid Analgesics", adopted as policy April 2017 by the Federation of State Medical Boards, which is incorporated by reference;

~~(8) violating a term, condition, or requirement [contained in a "diversion agreement" as defined in Subsection 58-1-404(6)(a)] 58-4a-102(1), or "program contract" as defined in Subsection 58-4a-102(4); or~~

~~(9) failing, as a health care provider, to follow the health care claims practices of Subsection 31A-26-301.5(4)] 313, in violation of Subsection 58-1-508(2).~~

R156-1-501.1. Cheating on Examinations.

(1) Policy.

The passing of an examination, when required as a condition of obtaining or maintaining a license issued by the Division, is considered to be a critical indicator that an applicant or licensee meets the minimum qualifications for licensure. Failure to pass an examination is ~~[considered to be]~~ evidence that an applicant or licensee does not meet the minimum qualifications for licensure. Accordingly, the accuracy of the examination result as a measure of an applicant's or licensee's competency must be assured. Cheating by an applicant or licensee on any examination required as a condition of obtaining a license or maintaining a license shall be considered unprofessional conduct and shall result in imposition of an appropriate penalty against the applicant or licensee.

(2) Cheating Defined.

Cheating is defined as the use of any means or instrumentality by or for the benefit of an examinee to alter the results of an examination in any way to cause the examination results to inaccurately represent the competency of an examinee with respect to the knowledge or skills about which they are examined. Cheating includes:

- (a) communication between examinees inside of the examination room or facility during the course of the examination;
- (b) communication about the examination with anyone outside of the examination room or facility during the course of the examination;
- (c) copying another examinee's answers or looking at another examinee's answers while an examination is in progress;
- (d) permitting anyone to copy answers to the examination;
- (e) substitution by an applicant or licensee or by others for the benefit of an applicant or licensee of another person as the examinee in place of the applicant or licensee;
- (f) use by an applicant or licensee of any written material, audio material, video material or any other mechanism not specifically authorized during the examination ~~[for the purpose of assisting]~~ to assist an examinee in the examination;
- (g) obtaining, using, buying, selling, possession of or having access to a copy of any portion of the examination prior to administration of the examination.

(3) Action Upon Detection of Cheating.

(a) The person responsible for administration of an examination, upon evidence that an examinee is or has been cheating on an examination shall notify the Division of the circumstances in detail and the identity of the examinees involved with an assessment of the degree of involvement of each examinee;

(b) If cheating is detected prior to commencement of the examination, the examinee may be denied the privilege of taking the examination; or if permitted to take the examination, the examinee shall be notified of the evidence of cheating and shall be informed that the Division may consider the examination to have been failed by the applicant or licensee because of the cheating; or

(c) If cheating is detected during the examination, the examinee may be requested to leave the examination facility and in that case the examination results shall be the same as failure of the examination; however, if the person responsible for administration of the examination

determines the cheating detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further cheating shall be taken and the examinee may be permitted to continue with the examination.

(d) If cheating is detected after the examination, the Division shall make appropriate inquiry to determine the facts concerning the cheating and shall thereafter take appropriate action.

(e) Upon determination that an applicant has cheated on an examination, the applicant may be denied the privilege of retaking the examination for a reasonable period of time, and the Division may deny the applicant a license and may establish conditions the applicant ~~[must]~~ shall meet to qualify for a license including the earliest date ~~[on which]~~ when the Division will again consider the applicant for licensure.

R156-1-502. Administrative Penalties.

(1) In accordance with Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under this Title R156, the following fine schedule shall apply to citations issued under the referenced authority:

TABLE

FINE SCHEDULE

FIRST OFFENSE

Violation	Fine
58-1-501(1)(a)	\$ 500.00
58-1-501(1)(c)	\$ 800.00
58-1-501(1)(g)	\$ 500.00
58-1-501(2)(o)	\$ 0 - \$250.00
58-1-508(2)	\$ 250.00

SECOND OFFENSE

58-1-501(1)(a)	\$1,000.00
58-1-501(1)(c)	\$1,600.00
58-1-501(1)(g)	\$1,000.00
58-1-501(2)(o)	\$251.00 - \$500.00
58-1-508(2)	\$ 500.00

THIRD OFFENSE

Double the amount for a second offense, with a maximum amount not to exceed the maximum fine ~~[allowed]~~ under Subsection 58-1-502(2)(j)(iii).

~~[(2)]~~ Citations ~~[shall]~~ may not be issued for third offenses, except in extraordinary circumstances approved by the ~~[investigative]~~ investigation supervisor or chief investigator.

~~[(3)]~~ Multiple offenses may be cited on the same citation, if the citation clearly indicates each offense and the fine allocated to each offense. ~~[If multiple offenses are cited on the same citation, the fine~~

~~shall be determined by evaluating the most serious offense.]~~

([4]3) An ~~[investigative]~~ investigation supervisor or chief investigator may authorize a deviation from the fine ~~[schedule]~~ in a citation based upon the aggravating or mitigating circumstances.

([5]4) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-1-503. Reporting Disciplinary Action.

The Division may report disciplinary action to other state or federal governmental entities, state and federal data banks, the media, or ~~[any]~~ other person who is entitled to such information under the Government Records Access and Management Act.

R156-1-506. Supervision of Cosmetic Medical Procedures.

The 80 hours of documented education and experience required under Subsection 58-1-506(2)(f)(iii) to maintain competence to perform nonablative cosmetic medical procedures ~~[is defined to-]~~ includes the following:

- (1) the appropriate standards of care for performing nonablative cosmetic medical procedures;
- (2) physiology of the skin;
- (3) skin typing and analysis;
- (4) skin conditions, disorders, and diseases;
- (5) pre and post procedure care;
- (6) infection control;
- (7) laser and light physics training;
- (8) laser technologies and applications;
- (9) safety and maintenance of lasers;
- (10) cosmetic medical procedures an individual is permitted to perform under this title;
- (11) recognition and appropriate management of complications from a procedure; and
- (12) current cardio-pulmonary resuscitation (CPR) certification for health care providers from one of the following organizations:
 - (a) American Heart Association;
 - (b) American Red Cross or its affiliates; or
 - (c) American Safety and Health Institute.

R156-1-602. Telehealth - Definitions.

In accordance with Section 26-60-103 and Subsection 26-60-104(1), in addition to the definitions in ~~[Title 58 and Rule R156, as used in this section]~~ Title 26, Chapter 60, Telehealth Act, as used in Title 58 or this Title R156 the following rule definitions supplement the statutory definitions:

- (1) ~~["Asynchronous store and forward transfer" means the same as defined in Subsection 26-60-102(1).]~~
- (2) ~~"Standards of Practice" means those standards of practice applicable in a traditional health care setting, as provided in Subsection 26-60-103(1)(a)(ii).]~~
- (3) ~~"Distant site" means the same as defined in Subsection 26-60-~~

~~102(2).~~

~~(4)~~] "Originating site" means the same as defined in Subsection 26-60-102(3).

(~~5~~)2) "Patient" means the same as defined in Subsection 26-60-102(4).

(~~6~~)3) "Patient Encounter" means any encounter where medical treatment and~~/or~~ evaluation and management services are provided. ~~[For purposes of this rule, the]~~The entire course of an inpatient stay in a healthcare facility or treatment in an emergency department is ~~[considered]~~ a single patient encounter.

(~~7~~)4) "Provider" means the same as defined in Subsection 26-60-102(~~5~~)6)(b), an individual licensed under Title 58 to provide health care services, and:

(a) shall include an individual exempt from licensure as defined in Section 58-1-307 who provides health care services within the individual's scope of practice under Title 58, Occupations and Professions; and

(b) ~~[for purposes of this section, "provider"]~~may include multiple providers obtaining informed consent and providing care as a team, consistent with the standards of practice applicable to a broader practice model found in traditional health care settings. [~~(8)~~]

~~(8)~~ "Synchronous interaction" means the same as defined in Subsection ~~26-60-102(6).~~]

(~~9~~)5) "Telehealth services" means the same as defined in Subsection 26-60-102(~~7~~)8).

(~~10~~)6) "Telemedicine services" means the same as defined in Subsection 26-60-102(~~8~~)9).

R156-1-603. Telehealth - Scope of Telehealth Practice.

(1)(a) ~~[This rule is not intended to alter or amend the applicable standard of practice for any healthcare field or profession. The provider shall be held to the same standards of practice including maintaining patient confidentiality and recordkeeping that would apply to the provision of the same health care services in an in person setting.]~~

~~(2)~~] In accordance with [~~Section~~]Subsection 26-60-103(1) [~~and Subsection 26-60-104(1)~~], a provider offering telehealth services shall, prior to each patient encounter:

(~~a~~)i) verify the patient's identity and originating site;

(~~ii~~) allow the patient an opportunity to select their provider rather than being assigned a provider at random, to the extent possible; and

(~~iii~~) ensure that the online site does not restrict the patient's choice to select a specific pharmacy for pharmacy services; and

(b) prior to each initial patient encounter, and at least annual intervals, obtain informed consent to the use of telehealth services by clear disclosure of:

(i) additional fees for telehealth services, if any, and how payment is to be made for those additional fees if they are charged separately~~[from any fees for face to face services provided to the patient in combination with the telehealth services]~~;

(ii) to whom patient health information may be disclosed and for what purpose, including clear reference to any patient consent governing release of patient-identifiable information to a third-party;

(iii) the rights of the patient[s] with respect to patient health information;

(iv) appropriate uses and limitations of the site, including emergency health situations;

(v) information[+]

~~—(A)—~~ affirming that the telehealth services meet industry security and privacy standards[, ~~and comply with all laws referenced~~] in Subsection 26-60-102([8]9)(b)(ii), and[+]

~~—(B)—~~ warning of potential risks to privacy regardless of[~~notwithstanding~~] the security measures;

([E]vi) a warning that information may be lost due to technical failures, and clearly referencing any patient consent to hold the provider harmless for such loss; and

([D]vii) information disclosing the website owner[+] operator, location, and contact information. [+and]

~~—(c)—~~ allow the patient an opportunity to select their provider rather than being assigned a provider at random, to the extent possible;

~~—(d)—~~ ensure that the online site from which the provider offers telehealth services does not restrict a patient's choice to select a specific pharmacy for pharmacy services.

~~—(3)—~~ In accordance with Subsection 26-60-103(1)(b), it is not an acceptable standard of care for a provider offering telehealth services to establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment based solely on an online questionnaire, except as specifically provided in Title 58, Chapter 83, the Online Prescribing, Dispensing and Facilitation Licensing Act.]

([4]2) In accordance with Subsection 26-60-103(1)([e]d), a provider offering telehealth services shall be available to the patient for subsequent care related to the initial telemedicine services[, by] as follows:

(a) providing the patient with a clear mechanism to:

(i) access, supplement, and amend patient-provided personal health information;

(ii) contact the provider for subsequent care;

(iii) obtain upon request an electronic or hard copy of the patient's medical record documenting the telemedicine services, including the informed consent provided; and

(iv) request a transfer to another provider of the patient's medical record documenting the telemedicine services; and

(b) if the provider recommends that the patient [needs to] be seen in person, such as [where] if diagnosis requires a physical examination, lab work, or imaging studies:

(i) arranging to see the patient in person, or directing the patient to the patient's regular provider, or if none, to an appropriate provider; and

(ii) documenting the recommendation in the patient's medical record; and

(c) upon patient request, electronically transferring to another provider the patient's medical record documenting the telemedicine services, within a reasonable time frame allowing for timely care of the patient by that provider. [

~~—(5)—~~ In accordance with Subsection 26-60-103(1)(d), a provider

~~offering telehealth services shall be familiar with available medical resources, including emergency resources near the originating site.~~

~~(6) In settings and circumstances where an established provider-patient relationship is not present, a provider offering telehealth services shall establish a provider-patient relationship during the patient encounter, in a manner consistent with standards of practice including providing the provider's licensure and credentials.]~~

([7]3) Nothing in this section shall prohibit electronic communications consistent with standards of practice applicable in traditional health care settings, including ~~[those]~~the following:

(a) between a provider and a patient with a preexisting provider-patient relationship;

(b) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(c) in on-call or cross coverage situations ~~[in which]~~when the provider has access to patient records;

(d) in broader practice models ~~[where]~~when multiple providers provide care as a team, including, for example:

(i) within an existing organization; or

(ii) within an emergency department; or

(e) in an emergency, which as used in this section means a situation ~~[in which]~~when there is an occurrence posing an imminent threat of a life-threatening condition or severe bodily harm.

KEY: ~~[diversion programs,]~~licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: ~~[January 9, 2020]~~2021

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